

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

Case No. 19-20905

The Diocese of Rochester,

Chapter 11

Debtor.

**STIPULATION AND ORDER REGARDING
DISCOVERY AND THE HEARING RELATING TO THE MOTION
BY THE DIOCESE TO APPROVE NEGOTIATED SETTLEMENTS
PURSUANT TO FEDERAL RULE OF BANKRUPTCY 9019**

It is hereby stipulated and agreed, by and through the undersigned counsel of record for The Diocese of Rochester (the "Debtor"), the Official Committee of Unsecured Creditors (the "Committee"), London Market Insurers ("LMI")¹, Certain Underwriters at Lloyd's, London ("Underwriters")², Interstate Fire & Casualty Company and National Surety Corporation (collectively, "Interstate"), and The Continental Insurance Company, successor by merger to Commercial Insurance Company of Newark, New Jersey and Firemen's Insurance Company of Newark, New Jersey ("CNA"), and together with LMI, Underwriters and Interstate, the "Insurers" (the Debtor, the Committee, LMI, Underwriters, Interstate and CNA are each a "Party" and are collectively referred to as the "Parties"), as follows:

¹ The term "London Market Insurers" refers, collectively to Certain Underwriters at Lloyd's, London, Catalina Worthing Insurance Ltd. f/k/a HFPI (as Part VII transferee of Excess Insurance Company Ltd.), RiverStone Insurance (UK) Limited (as successor in interest to Terra Nova Insurance Company Ltd. and as successor in interest to Sphere Drake Insurance Ltd.), Sampo Japan Nipponkoa Insurance Company of Europe Limited (formerly known as The Yasuda Fire & Marine Insurance Company), and Dominion Insurance Company Ltd., who subscribed severally and not jointly as their interests appear to Package, Excess Broadform, and other Policies providing insurance to the Diocese of Rochester and other Non-Debtor Diocesan Related Entities.

² The term "Underwriters" refers to certain Underwriters at Lloyd's, London, HDI Global Specialty SE and Convex Insurance UK Limited subscribing to Certificates providing insurance to the Diocese of Rochester and other non-Debtor related entities from July 1, 2018 to the present.

WHEREAS, the Debtor has moved this Court (the “Motion”) (Dkt. No. 190) for entry of an order, pursuant to sections 105 and 363 of title 11 of the United States Code (11 U.S.C. § 101, et seq., as amended, the “Bankruptcy Code”) and Rules 2002(a)(2)-(a)(3), 6004, 9007, 9008, and 9019(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) approving negotiated settlements with the Insurers, which will provide aggregate settlement proceeds of \$107,750,000 to be combined with an additional \$40,500,000 contribution from the Diocese and other Debtor related entities to make a total of \$147,750,000 in funding available for a trust to compensate survivors of abuse.

WHEREAS, the Parties have agreed to a schedule for the Committee’s response to the Motion, the deadlines for any discovery that the parties choose to conduct in relation to the Motion and the dates relating to any hearing on the Motion that may be necessary to resolve the Motion.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, subject to the approval of the Court, as follows:

1. **June 23, 2022:** Deadline for the Insurers and any others to file and serve briefs in support of the Motion.
2. **June 30, 2022:** Deadline for (a) the service of any written discovery demands pursuant to the Federal Rules of Civil Procedure, and (b) the Committee to file and serve any response or objection to the Motion.
3. **July 22, 2022:** Deadline for (a) the disclosure of all fact witnesses each Party believes in good faith that it is likely to call at the Hearing (as defined below) (the “Preliminary Witness List”), and (b) the filing and service of any replies to any responses or objections to the Motion.

4. August 8, 2022: Deadline to produce responses to written discovery demands, including written objections and responses and documents or information responsive to such demands.

5. August 15, 2022: Deadline (a) for each Party to supplement its respective Preliminary Witness List with all additional witnesses such Party will call at the Hearing, and (b) to submit written discovery disputes to the Court (each, a "Discovery Motion").³

6. August 22, 2022: The Court to determine all written discovery issues.

7. October 14, 2022: Deadline to complete all fact discovery, including depositions of fact witnesses.

8. October 21, 2022: Deadline for all Parties to identify expert witnesses.


9. October 28, 2022: Deadline for any Party intending to offer expert testimony that is not rebuttal expert testimony at the Hearing to serve on all other Parties a written report prepared and signed by the expert containing the information required by Federal Rules of Civil Procedure 26(a)(2)(B), along with all documents, facts, and data considered by the expert authoring the report. The parties hereby stipulate, pursuant to Bankruptcy Rule 9014, that Federal Rules of Civil Procedure 26(a)(2) shall apply in this case.

10. November 11, 2022: Deadline for any Party intending to offer rebuttal expert testimony at the Hearing to serve a written rebuttal expert report on all other Parties containing the information required by Federal Rule of Civil Procedure 26(a)(2)(B), along with all documents, facts, and data considered by the expert authoring the rebuttal report. If the expert providing

³ The parties agree (a) to meet and confer in good faith before filing any Discovery Motion, (b) to jointly request that the Discovery Motion be heard telephonically, on five (5) calendar days' notice, or as soon thereafter as counsel can be heard (without the necessity of filing a motion to shorten time), and that (c) any response or objection to a Discovery Motion shall be filed at least 48 hours before the telephonic hearing.


rebuttal testimony had not been previously disclosed and identified, such rebuttal report shall contain the information required by Federal Rules of Civil Procedure 26(a)(2)(A) and (B).


11. **December 16, 2022**: Deadline to complete all expert discovery, including depositions of expert witnesses.

12. The evidentiary hearing on the Motion (the "Hearing") will be conducted in person and commence on JAN. 24, 2023 at 9:30 a.m. and shall continue, as necessary on JAN 25, 2023, JAN 26, 2023 and JAN 27, 2023. (X) 

13. Ten (10) days prior to the first day of the Hearing, the Parties shall exchange copies of all exhibits and witness names to be offered at the Hearing.

14. Seven (7) days prior to the first day of the Hearing, the Parties shall each file a trial brief, motions *in limine* (if any), and motions to preclude expert testimony (if any); the Parties shall file with the court a joint exhibit list, which highlights any unresolved objections to admissibility to such exhibits.

 15. ~~Three (3)~~ **FIVE (5)** days prior to the first day of the Hearing, the Debtor shall provide copies of the exhibits and the joint exhibit list to the Court, and the Parties shall file objections and responses, if any, to any filed motions *in limine* and motions to preclude expert testimony. The Court may enter an Order approving this Stipulation without further notice to any Party, and the Parties respectfully request that the Court do so.

(X) The Court will set a date for the submission of post-trial briefs by an order to be entered at the conclusion of the trial. 

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SO ORDERED:

Dated: June 28, 2022
Rochester, New York


UNITED STATES BANKRUPTCY JUDGE